



# Operating Procedures ANSI Executive Standards Council (ExSC)

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Revision to add a new section 19.8 Pre-Hearing Disposition of Appeal and related update to 23 Appeal of ExSC Actions

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# Operating Procedures of the ANSI Executive Standards Council

## Introduction

The American National Standards Institute (ANSI) serves as the national coordinator of voluntary standardization activities in the United States. Through ANSI, organizations concerned with standards activities may cooperate in establishing, improving, and recognizing American National Standards based on a consensus of directly and materially interested and adversely affected parties to the end that such activities remain dynamically responsive to national needs; that duplication of work and conflict of requirements are avoided; and that individual enterprise and initiative are encouraged.

The Executive Standards Council (ExSC) was established by the Board of Directors of ANSI with responsibilities that apply to both American National Standards and to U.S. participation in those international standards activities in which ANSI participates. The ExSC shall have exclusive authority to render decisions with regard to issues arising within the ANSI programs it is charged to oversee, subject only to any possible further appeal pursuant to applicable appeals procedures. The ExSC reports to the Executive Committee of the ANSI Board of Directors (Board ExCo).

## 1 Responsibilities and Functions

The ExSC, a Program Oversight Committee, shall be responsible for developing and promulgating procedures and criteria utilized in the national and international standards development activities of ANSI and for other duties that may be delegated to it by the Board. The functions of the ExSC shall include but not be limited to:

- a) Developing and promulgating procedures and criteria for: (i) the accreditation and auditing of standards developers; and (ii) the coordination, development, approval and withdrawal of standards as American National Standards, including the *ANSI Essential Requirements: Due process requirements for American National Standards* ("ANSI Essential Requirements" and any successor or related documents);
- b) Developing and promulgating procedures and criteria for the oversight of U.S. Technical Advisory Groups ("TAGs") to ISO, including the *ANSI Procedures for U.S. Participation in the International Standards Activities of ISO* ("ANSI International Procedures" and any successor or related document); and
- c) Overseeing all aspects of and making determinations relating to ANSI's standards developer accreditation, audit, and audited designator programs, as well as, the accreditation of U.S. TAGs to ISO, including appeals of such decisions.

The ExSC shall exercise exclusive responsibility for the terms of the *ANSI Essential Requirements* and *ANSI International Procedures*, including ANSI's Patent Policy, subject only to Board ExCo and/or Board approval. The ExSC, in its discretion, may solicit input from other Committees of ANSI, Membership Forums or Policy Advisory Groups from time to time when interpreting or considering revisions to the *ANSI Essential Requirements* and *ANSI International Procedures*.

The Board of Standards Review (BSR) of ANSI has been delegated the responsibility for approval and withdrawal of standards as American National Standards, acting in accordance with criteria established by the ExSC.

## 2 ExSC Membership and Membership Rights

The requirements for membership and the officers of the ExSC are provided in the *ANSI By-Laws*. The members of the ExSC shall, in that capacity, act in good faith and as fiduciaries to ANSI and shall act in the best interest of ANSI when making decisions on behalf of ANSI. However, if ExSC voting members believe their duties to their employer or another third party conflict in any way with those of ANSI, they may simply recuse themselves from decision making on behalf of ANSI as detailed in Section 14 below. The members of the ExSC shall also abide by ANSI's Conflict of Interest and Related Party Transaction Policy, as well as, the ANSI Code of Conduct and these Operating Procedures.

Except as otherwise delegated by the Board, members of the ExSC shall be nominated by ExSC voting members and appointed by the Chair of the Board with the approval of the Board. In making these appointments, the Chair of the Board shall endeavor to ensure representation of all membership categories concerned with the activities of the ExSC. The ExSC shall be composed of representatives of organizational members, company members, governmental members, members of the Consumer Interest Forum, and members-at-large. The ExSC shall strive for a membership of between ten (10) and twenty-one (21) members. An attempt shall be made to have at least two members in each category, with a maximum of six members, in any given category, provided the total number of ExSC voting members does not exceed 21. The ExSC shall strive to a balance of representation among categories to the extent possible. Membership in ANSI by the entity with which the member is affiliated shall be a prerequisite for participation in the ExSC unless the Board specifically permits otherwise. Membership in the ExSC, however, shall be by the individual, not the entity with which such person is affiliated.

Members should, to the extent possible, represent the broadest interests of all standards developers and/or users. Next in order of priority, members should represent their assigned interest category (i.e., Organization Member, Company Member, Government Member, Consumer Interest Forum, member-at-large) rather than their employer's specific interests. A member assigned to the member-at-large category may be drawn from another category. No organization shall have a vested right to membership, including an unexpired vacancy. Except as may be extended by the Board, each new member appointment shall be for a term of three full years with no person serving more than three full consecutive terms.

### **3 Member Participation**

Members are expected to participate actively by fulfilling attendance, voting, correspondence, and other obligations. Members are expected to participate in good faith and in accordance with professional standards, respectful of the rules of the ExSC and the authority given to the Officers of the ExSC as well as to the ExSC Membership, to act on behalf of ANSI.

Repeated failure to return ballots or attend meetings shall be considered as a lack of interest. When a member fails repeatedly to return ballots before the close of the ballot period, or attend meetings, the Secretary shall place the matter before the ExSC. The ExSC may request the Chair of the Board of Directors to remove such individual from his or her assignment.

### **4 Officers**

The Chair of the ANSI Board of Directors shall appoint the Chair of the ExSC subject to approval by the Board. The ExSC Chair and Vice Chair shall serve for a term of two years and shall be eligible to serve for a maximum of two full consecutive two-year terms. Except as may be extended by the Board, each appointment of a member to the ExSC shall be for a term of three full years with no person serving more than three full consecutive terms.

A staff member of ANSI designated by the President shall serve as a non-voting secretary of the ANSI ExSC.

### **5 Nominations and Elections**

Recommendations for ExSC membership shall be open to any reasonable source. Recommendations may be requested from appropriate ANSI committees, forums and advisory groups. All recommendations shall be submitted to the Secretary and referred to the ExSC Nominating Committee for consideration.

The Chair of the ExSC shall appoint, before February 1 of each year, a Nominating Committee of not less than three (3) members from among the members of the Council to serve until December 31. By majority vote, on or around September 15 of each year, this committee shall nominate the following:

- a) Candidates to serve as Chair and Vice-Chair of the ExSC for the following year if the term of the current Chair or Vice Chair is due to expire;
- b) Members of its Executive Committee;
- c) Members of the ExSC (to fill vacancies and expired terms).

By October 1 of each year, the Secretary of the ExSC shall forward to the members of the ExSC the report of the Nominating Committee. Other nominations may be made to ANSI by petition, signed by at least five (5) members of the ExSC, prior to September 1 of each year. Thereafter, the Secretary of the ExSC shall issue to each voting

member of the ExSC a ballot containing the names of all nominees. All ballots returned to ANSI by the closing date shall be counted and the names of the nominees receiving a majority of the votes cast by the current ExSC membership shall be submitted to the Chair of the ANSI Board of Directors for appointment subject to approval by the ANSI Board of Directors.

## **6 Executive Committee of the ExSC**

The Executive Committee of the ExSC shall be responsible for those activities assigned to it by the ExSC. The Chair and Vice-Chair of the ExSC shall occupy the same positions on the Executive Committee. In addition, there shall be at least three (3) members elected by the ExSC for one-year terms. At any meeting of the Executive Committee, a majority of the members shall constitute a quorum.

## **7 Standards Advisors**

The ExSC may appoint individuals or groups to serve as Standards Advisors, each of whom would have competence in one or more technical or procedural areas of standards development, application and coordination. Standards Advisors will be called on to advise the ExSC on procedural issues. Standards Advisors shall not be responsible for making decisions, but shall serve, rather, as information sources.

Standards Advisors are appointed by the ExSC on the basis of individual or collective qualifications including experience, technical competence, impartiality, diplomatic abilities, knowledge of the voluntary consensus system, etc. Standards Advisors shall be appointed for a term to be determined by the ExSC.

## **8 Other Subcommittees and Task Forces**

The ExSC may establish such additional subcommittees and task forces as are considered desirable to accomplish its mission. Task forces shall have a defined scope and duration as approved by the ExSC, and shall be charged with making recommendations to the ExSC.

The Accreditation Subcommittee and the Audit Subcommittee are Standing Subcommittees of the ExSC. The Chair of the Accreditation Subcommittee is the Vice Chair of the ExSC. The Chair of the Audit Subcommittee shall be appointed by the Chair of the ExSC. These Subcommittees may make decisions on behalf of the ExSC as determined by the ExSC, or as appropriate, make recommendations to the ExSC. The ExSC may accept such recommendations, return the recommendations to the Subcommittee for further consideration or take any other action consistent with these procedures.

## **9 Additional Responsibilities**

In addition to the responsibilities set forth in the *ANSI By-Laws*, the ExSC shall act as necessary, on recommendations or appeals presented by resident counsel on the basis of legal considerations.

## **10 Meetings**

Meetings may be called by the Chair or the ExSC Executive Committee, or shall be called by the Secretary on petition of fifty percent of the membership.

At any meeting of the ExSC the presence of a majority of the current voting membership (i.e., the authorized voting membership reduced by vacancies) shall constitute a quorum.

## **11 Authorization of ExSC Letter Ballots**

The ExSC, in session, or the Chair of the ExSC may authorize the Secretary to distribute letter ballots.

## **12 Voting**

Each member of the ExSC shall exercise his or her voting privilege within such prescribed time limits as may be established.

### **13 Voting Period**

Letter ballots shall be scheduled to close on the twentieth (20<sup>th</sup>) working day following the date of issue, or when all ballots are received, unless otherwise authorized by the Chair. When a negative vote is cast, in connection with actions other than membership, the ballot shall remain open until the procedure of section 16 is completed.

### **14 Conflict of Interest**

In addition to complying with ANSI's Conflict of Interest Policy, a member of the ExSC shall act at all times in a manner that promotes confidence in the integrity and impartiality of ANSI's processes and procedures and should avoid a conflict of interest or the appearance of a conflict of interest in connection with all ExSC activities. A conflict of interest can arise from involvement by an ExSC member with the subject matter of a dispute under consideration by the ExSC or from any relationship between the ExSC member and a party to an action before the ExSC, whether past or present, that reasonably raises a question of an ExSC member's impartiality.

Typically a potential conflict of interest arises when a member of the ExSC participated in activities integral to the particular issue under review or that person is employed by, or a member of the governing body of, the relevant standards developer or other entity as applicable. Similarly, a conflict of interest usually does not exist by virtue of the fact that a member of the ANSI committee participated in the development of standards by a particular standards developer or is a member of that standards developer.

If a directly and materially interested and adversely affected party (such as a standards developer or a possible appellant) asserts that it believes that a member of the ExSC has a conflict of interest, that party is required to state the reason(s) for its belief. That information shall then be forwarded to the member of the ExSC identified as having a possible conflict for that person's response. If that committee member disagrees with the assertion, then the Chair of the ExSC shall make a final determination as to whether a conflict of interest exists.

Members of the ExSC who are disqualified from a particular discussion shall not participate in the deliberations or decisions.

### **15 Confidentiality**

The results of all letter ballots shall remain confidential to the ExSC until the ballot has been closed.

### **16 Disposition of Views and Objections**

The Secretary shall forward the views and objections of ExSC members to the Chair. The Chair shall determine whether the expressed views and objections shall be considered by correspondence or at a meeting. Comments or objections from ExSC members that require response by an entity outside of the ExSC shall be forwarded to the outside entity without specific identification of the ExSC member.

An effort to resolve all expressed objections shall be made, and each objector shall be advised of the disposition of the objection and the reasons therefor.

Unresolved objections shall be reported to the ExSC members in order to afford all members an opportunity to respond to them or to reaffirm or change their votes within fifteen working days.

### **17 Report of Letter Ballot Results**

When the letter ballot has been closed, the Secretary shall report the results to the ExSC and to others concerned.

### **18 Voting Requirements**

The following actions shall require approval by two-thirds (2/3) of the current ExSC voting membership in a letter ballot:

- a) Establishment or disbandment of an ExSC committee and approval of the scope and membership of such a body;
- b) Accreditation of standards developers or U.S. TAGs to ISO;
- c) Procedures for the development and coordination of American National Standards and for the criteria for the development and coordination of U.S. positions in the International Standardization Activities of the ISO and IEC;
- d) Proposed amendments to these Operating Procedures; and

- e) All other actions by letter ballot, unless otherwise specified, shall be by simple majority vote of the current ExSC voting membership.

Except for hearings of appeals by the ExSC, action at a meeting at which a quorum is present may be taken by the lesser of the following alternate requirements:

- a) Simple majority of the current voting membership;
- b) Two-thirds of those voting members present.

## **19 ExSC hearing of appeals**

### **19.1 Right to appeal**

All directly and materially interested parties<sup>1</sup> who have been or will be adversely affected by an action or inaction of the ExSC have the right to appeal in accordance with these procedures. Conclusion of the appeals process at the standards developer, or U.S. TAG, as the case may be, is not a precondition for filing an appeal with the ExSC of an organization's continuing accreditation status. Complaints concerning ANSI Audited Designators are governed by section 20 of these procedures and complaints concerning ANSI-Accredited U.S. TAGs to ISO are governed by section 21 of these procedures.

In connection with a new accreditation or reaccreditation<sup>2</sup> action, ANSI will notify those (if any) on record at ANSI who have objected to the action during the formal ANSI public review period, of the right to appeal. Any other party wishing to appeal such an action may do so in accordance with these procedures, but will not be given notice by ANSI and must file as a separate appellant in order to preserve standing to appeal to the ANSI Appeals Board.

All parties filing or responding to appeals or authoring letters of support must be clearly identified, and contact information provided, at the time of filing. Anonymous filings will not be accepted.

The ExSC may also hear appeals remanded or referred to the ExSC by the ANSI Appeals Board.

Other complaints or concerns of a directly and materially interested party who has been or will be adversely affected by any other kinds of actions or inactions of the ExSC should be brought to the attention of the ExSC secretary. The ExSC Executive Committee or the full ExSC (as determined by the Chair or Executive Committee) will address such concerns in a manner that it deems fair and reasonable, consistent with the *ANSI By-Laws* and these operating procedures.

### **19.2 Status of decision pending appeal and related communications**

Pending a decision by the ExSC panel, the original decision of the ExSC shall remain in effect unless the ExSC determines otherwise, in accordance with section 19.3. No party to an appeal may communicate with any unrecused member of the ANSI ExSC on the subject of the appeal while the matter is pending. All communications shall be directed to the secretary of the ANSI ExSC.

### **19.3 Request to stay a decision pending the conclusion of an appeal**

In the event that a party to a duly filed appeal or complaint wishes to request a stay of the decision at issue pending the conclusion of the review process, these procedures apply. The party requesting the stay will be allowed to submit a one-page statement to succinctly explain the extraordinary basis for the request and the other party, if it opposes, will also be allowed to submit a one-page statement to succinctly explain why the ExSC should not grant the request.

- a) The requestor shall contact the secretary to request implementation of this process.
- b) The requestor will be allowed one week to submit a one-page statement in support of its request.
- c) The one-page request will be provided to the other party(ies), which will in turn be allowed one week to submit a one-page response. (The one-page request/response shall be single spaced and 12 point font or larger.)
- d) Both documents will be provided to the ExSC via an expedited ballot.
- e) The secretary will issue a written decision to both parties on behalf of the ExSC.

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<sup>1</sup> "Parties" includes organizations, companies, government agencies, individuals etc.

<sup>2</sup> A "reaccreditation" action is the approval of revised procedures submitted by an ANSI-Accredited Standards Developer.

#### **19.4 Appeals Panel**

Hearing of appeals by the ExSC shall be handled by a panel of at least five ExSC voting members established for each appeal. If five members of the ExSC are not available to serve on the panel, the Chair or the Vice Chair of the ExSC may appoint one or more additional panel members who shall be persons knowledgeable about the *ANSI Essential Requirements* or the *ANSI International Procedures*, as applicable, and the standards development process. Such appointment(s) of non-ExSC members shall be with the concurrence of all parties to the appeal. A majority of the members of the panel shall be members of the ExSC.

#### **19.5 Appeal**

All appeals shall be made in writing. Appeals and the required filing fee shall be directed to the secretary of the ANSI ExSC on or before midnight Eastern time of the due date. The filing fee may be waived or reduced only upon sufficient evidence of hardship.

The appeal shall be comprised of a brief statement of the matter and the reason(s) why the appellant believes the decision is in error. Specifically, the appeal should include as appropriate:

- a) a copy of the decision from which the appeal is taken;
- b) an explanation of the issue and the procedural history;
- c) arguments that explain why appellant believes the decision was in error;
- d) references to the provision(s) of the ANSI procedures upon which appellant relies;
- e) relevant evidence that directly supports appellant's position and upon which appellant relies;
- f) letters of support for the appeal, if any, per section 19.7; and
- g) the specific relief sought by appellant from the ExSC.

The brief appeal statement (exclusive of exhibits and table of contents) shall not be more than 30 pages, double-spaced, 12 point font or larger. The secretary of the ExSC shall have discretion to extend this limit for good cause shown.

Unless otherwise instructed by the secretary of the ExSC, the appeal shall be sent via electronic means (with one complete hard copy mailed to ANSI) within fifteen (15) working days following the date of the decision that is the subject of the appeal or at any time with respect to an inaction by the ExSC or an appeal of an organization's continuing status as an ANSI-Accredited Standards Developer or ANSI-Accredited U.S. TAG Administrator to ISO. If the appellant is unable to provide the required appeals materials within the fifteen (15) working day deadline, an extension may be requested, with the grounds for such request noted. Such request must be directed to the secretary of the ExSC, within the fifteen (15) working day deadline or the appellant shall forfeit the right to appeal. Extensions of time to submit an appeal may be granted at the discretion of the Chair of the ExSC, or, if the Chair is unavailable, the Vice Chair of the ExSC or the secretary of the ExSC. No supplemental filing prior to the forthcoming hearing shall be permitted without a showing of good cause.

#### **19.6 Response**

The appeal shall be distributed by the secretary of the ExSC to the potential respondent(s) identified by the ExSC to allow them the opportunity to respond, if they so desire. Thereafter, this party shall have fifteen (15) working days to submit their response to the appeal on or before midnight Eastern time of the due date.

The response shall include:

- a) the reasons why respondent believes the decision under appeal was correct and a reference to the provisions in the ANSI procedures upon which the respondent relies;
- b) relevant evidence that directly supports respondent's position and upon which respondent relies; and
- c) letters of support for the response, if any, per section 19.7.

The brief response (exclusive of exhibits and table of contents) shall not be more than 30 pages, double-spaced, 12 point font or larger. The secretary of the ExSC shall have discretion to extend this limit for good cause shown.

The response shall be distributed by the secretary of the ExSC to ExSC members, subject to applicable conflict of interest procedures, and to the appellant. No supplemental filing prior to the forthcoming hearing shall be permitted without a showing of good cause.

If the respondent is unable to provide the required response within fifteen (15) working days, an extension may be requested, with the grounds for such noted. Such request must be directed to the secretary of the ExSC within the fifteen (15) working day deadline or the respondent shall forfeit the right to respond. Upon receipt of the response it shall be provided to the appellant for information only. No reply to the response prior to the forthcoming hearing shall be permitted without a showing of good cause. Extensions of time to submit a response may be granted at the discretion of the Chair of the ExSC, or, if the Chair is unavailable, the Vice Chair of the ExSC or the secretary of the ExSC.

#### **19.7 Letters of support by non-parties to the appeal**

A person or organization that is not a party to the appeal may submit a letter of support for a position taken by the appellant or respondent to the appeal by contacting that party and requesting that such a letter be included in that party's formal appeals brief or response.

Such party-supporting letters shall be clearly marked as such, may not include new evidence, may not exceed three single-space pages in length, 12 point font or larger, and may address procedural issues only. Letters not meeting the requirements of this section will not be accepted without the approval of the ExSC Chair or Vice Chair. Authors of such letters do not have any special standing with respect to ANSI's appeals processes, are not considered parties to the appeal and do not have the right to address the adjudicating body at the hearing on the matter.

#### **19.8 Pre-Hearing Disposition of Appeal**

If, based on the appeal and response, the ExSC panel determines that the appellant lacks standing to bring the appeal, the ExSC lacks jurisdiction to hear the appeal, or a similar procedural defect exists, the ExSC panel may dismiss the appeal without holding a hearing. If the ExSC panel requires additional information to determine whether pre-hearing dismissal is appropriate, the ExSC panel may suspend scheduling the hearing and request clarification from the parties on issues such as standing or jurisdiction, or the like.

If the appeal is dismissed without a hearing, the secretary will notify both the appellant and the respondent in writing, providing a brief explanation of the reason for dismissal. Notice shall be sent by the secretary to the parties within fifteen (15) working days unless an extension is authorized by the Chair of the ExSC, or, if the Chair is unavailable, by the Vice Chair of the ExSC.

#### **19.98 Hearing**

The secretary of the ExSC shall establish a panel to hear the appeal, subject to applicable conflict of interest procedures.

A hearing date for an appeal shall be set by the secretary of the ExSC after consultation with the Chair. However, a later date may be scheduled if mutually agreeable to the participants in the hearing. All parties shall be given at least fifteen (15) working days notice of the hearing date. Panel members shall receive copies of the appeals record at least fifteen (15) working days prior to the date of the appeals hearing. The name and affiliation of all speakers and any observers must be provided to the secretary of the ExSC in advance of the hearing.

At the hearing, the appellant's position shall be presented first, followed by the respondent. Each side is then allowed to respond until their total allotted time is exhausted. A half hour total, for the initial presentation and subsequent responses, is allotted for each side, with a limit of three speakers per side. Additional time is allotted for a question and answer session directed by the panel. At the hearing, speakers are not permitted to make assertions about facts or issues not in the record. The hearing may not be recorded in any way. At the close of the question and answer period, the appeals panel shall go into executive (closed) session for the purpose of arriving at a decision.

Should any party at interest not be present at the hearing, the decision of the ExSC panel shall be based on the presentations made by the parties that are present at the hearing in addition to the written submissions on record.

#### **19.109 Decision**

Decisions of ExSC appeals panels shall require a majority vote of the panel, shall represent the decision of the ExSC, and shall be provided to the ExSC for their information. Notice of a decision reached by the ExSC appeals panel shall be sent by the secretary to the parties within fifteen (15) working days, unless an extension is

authorized by the Chair of the ExSC, or, if the Chair is unavailable, by the Vice Chair. The decision shall specify the outcome of the appeal, and shall be accompanied by an explanation of the reasons for such outcome, and the specific relief granted, if any. The outcome of the appeal shall be announced in *Standards Action*.

## **20 ExSC Consideration of Complaints against ANSI Audited Designators**

If a formal complaint<sup>3</sup> is lodged against an Audited Designator, and said complaint relates to whether or not the developer should remain ANSI-accredited or retain the status of Audited Designator, the Executive Committee of the ExSC, in their discretion, shall determine whether such a complaint should be processed in accordance with (a) through (f) below or section 19 *ExSC hearing of appeals* of the *Operating Procedures of the ANSI Executive Standards Council*.

All complaints shall be made in writing. Complaints and the required filing fee shall be directed to the secretary of the ANSI ExSC on or before midnight Eastern time of the due date. The filing fee may be waived or reduced only upon sufficient evidence of hardship.

If a formal complaint is lodged against an Audited Designator and the ExSC Executive Committee has decided not to implement section 19, and if (i) the complaint relates to one or more specific approved American National Standards and (ii) the complainant has completed the appeals process(es) available at the Audited Designator, the ExSC shall handle the complaint in accordance with (a) through (f) below.

- (a) Upon receipt of a formal complaint, the ExSC shall review the complaint.
  - 1) If the complaint has not been submitted to ANSI (i) within 30 days after the complainant completed the appeals process(es) and received the final determination of the complainant's appeal at the Audited Designator or (ii) otherwise within a reasonable time of the challenged action of the Audited Designator, the ExSC shall, unless there are compelling circumstances, dismiss the complaint.
  - 2) If the complaint does not (i) specifically allege that the Audited Designator violated any of its accredited procedures and that any related appeals decision issued by the Audited Designator was clearly erroneous, and (ii) provide sufficient substantiation of facts to support such allegations to establish a *prima facie* case, the ExSC shall dismiss the complaint.
  - 3) If the complaint is technical in nature or relates to the content of a standard, the ExSC shall dismiss the complaint.
- (b) If the complaint is not dismissed pursuant to (a), the ExSC shall send a copy of the complaint to the Audited Designator and request a response to the allegations in the complaint. The ExSC, in its discretion, may ask the Audited Designator either for a general response or, if the ExSC is concerned with only certain of the allegations raised in the complaint, it may request a more limited response only to those areas of concern.
- (c) Upon receipt of the response from the Audited Designator, the ExSC shall do one of the following:
  - 1) If it determines that the complaint and the response taken together do not support a claim that the Audited Designator has violated its procedures, it shall dismiss the complaint.
  - 2) If it determines that the complaint raises issues that merit further review, it shall refer the complaint with any special instructions to the audit team at the next regularly scheduled audit or take other appropriate action such as the scheduling of a hearing.
  - 3) If it determines that substantial and material reasons exist indicating immediate action may be necessary, it shall order an audit for cause or take other appropriate action such as initiating the withdrawal of accreditation or of the developer's Audited Designator status.
- (d) Any audit for cause shall be limited in scope to that which is necessary to reasonably investigate the complaint. Such audits, where appropriate, may be handled remotely, rather than through an on-site visit.
- (e) Following any audit for cause, the Audited Designator shall receive a copy of the audit report and shall have the opportunity to provide a written response to the audit report. The results of any audit for cause and the response of the Audited Designator shall be reviewed by the ExSC, who shall determine what additional action, if any, shall be taken.
- (f) The standards developer shall have full notice and an opportunity to be heard before the ExSC implements any adverse action against the standards developer.
- (g) The ExSC's final action may be appealed to the ANSI Appeals Board.

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<sup>3</sup> See section 19 for filing specifications.

## 21 ExSC Consideration of Complaints against ANSI-Accredited U.S. TAGs to ISO

If a formal complaint<sup>4</sup> is lodged against an ANSI-Accredited U.S. TAG to ISO (U.S. TAG), the Executive Committee of the ExSC, in its discretion, shall determine whether such a complaint shall be processed in accordance with (a) through (f) below or section 19 *ExSC hearing of appeals* of the *Operating Procedures of the ANSI Executive Standards Council*.

All complaints shall be made in writing. Complaints and the required filing fee shall be directed to the secretary of the ANSI ExSC on or before midnight Eastern time of the due date. The filing fee may be waived or reduced only upon sufficient evidence of hardship.

If a formal complaint is lodged against an ANSI-Accredited U.S. TAG to ISO (U.S. TAG), and if the complainant has completed the appeals process(es) available at the U.S. TAG and the ExSC Executive Committee has decided not to implement section 19, the ExSC shall handle the complaint as follows:

- (a) Upon receipt of a formal complaint, the ExSC shall review the complaint.
  - 1) If the complaint has not been brought within a reasonable time of the challenged action of the U.S. TAG, the ExSC shall, unless there are compelling circumstances, dismiss the complaint.
  - 2) If the Complaint is technical in nature or relates to the content of a standard and does not allege and provide substantiation of facts constituting a violation of any procedures under which the U.S. TAG is accredited to operate, the ExSC shall dismiss the complaint.
- (b) If the Complaint is not dismissed pursuant to (a), the ExSC shall send a copy of the complaint to the U.S. TAG Administrator and request a response to the allegations in the complaint. The ExSC, in its discretion, may ask the TAG Administrator either for a general response or, if it is concerned with only certain of the allegations raised in the complaint, it may request a more limited response only to those areas of concern.
- (c) Upon receipt of the response from the U.S. TAG, the ExSC shall do one of the following:
  - 1) If it determines that the complaint and the response taken together do not support a claim that the U.S. TAG has violated its procedures, it shall dismiss the complaint.
  - 2) If it determines that the complaint and the response taken together raise issues that merit further review, it shall take appropriate action such as schedule a hearing or order an audit for cause.
- (d) Any audit for cause shall be limited in scope to that which is necessary to reasonably investigate the complaint. Such audits, where appropriate, may be handled remotely, rather than through an on-site visit.
- (e) Following any audit for cause, the U.S. TAG Administrator shall receive a copy of the audit report and shall have the opportunity to provide a written response to the audit report. The results of any audit for cause and the response of the U.S. TAG shall be reviewed by the ExSC, who shall determine what additional action, if any, shall be taken. The U.S. TAG shall have full notice and an opportunity to be heard before the ExSC implements any adverse action against the U.S. TAG.
- (f) The ExSC's final action may be appealed to the ANSI Appeals Board.

## 22 Accessibility of appeals decisions

A copy of the appeal decision shall be made available upon request.

## 23 Appeal of ExSC Actions

In accordance with the *ANSI Appeals Board Operating Procedures*, an appeal from a final appeal or complaint decision of the ExSC, or from a decision to dismiss an appeal or complaint without a hearing, may be filed with the Appeals Board by the appellant or respondent to the ExSC appeal or complaint at issue.

## 24 Informal settlement

ANSI encourages settlement of disputes at any time if the settlement is consistent with the objectives of the ANSI procedures. Any settlement (to which the parties agree in writing) that is consistent with ANSI procedures, or an agreement to withdraw the appeal, will terminate the appeals process. If the settlement leads to a substantive change in a standard, the change shall be processed in accordance with the *ANSI Essential Requirements: Due process requirements for American National Standards*.

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<sup>4</sup> See section 19 for filing specifications.

**25 Amendments**

The Executive Committee of the Board may make changes to these operating procedures at any time after consultation with or upon recommendation of the Executive Standards Council.